

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

PETER JAMES CARR,

Petitioner,

v.

JASON BENNETT,

Respondent.

CASE NO. C24-1377JLR

ORDER

**I. INTRODUCTION**

On October 10, 2024, the court adopted in its entirety United States Magistrate Judge Brian A. Tsuchida's report and recommendation regarding *pro se* Petitioner Peter J. Carr's petition for writ of habeas corpus, dismissed Mr. Carr's petition for lack of subject matter jurisdiction, and entered judgment. (10/10/24 Order (Dkt. # 12); Judgment (Dkt. # 13); R&R (Dkt. # 4); Petition (Dkt. # 1-1).) On October 23, 2024, Mr. Carr filed a motion for relief from that judgment. (MFR (Dkt. # 14).) The court has considered Mr.

Carr’s motion, the relevant portions of the record, and the governing law. Being fully advised, the court DENIES Mr. Carr’s motion for relief from judgment.

## II. ANALYSIS<sup>1</sup>

Mr. Carr moves for relief under Federal Rule of Civil Procedure 60(b)(4), arguing that the judgment in this case is void. (*See generally* MFR.) Rule 60(b) “allows a party to seek relief from a final judgment, and request reopening of his case, under a limited set of circumstances[.]” *Gonzalez v. Crosby*, 545 U.S. 524, 528 (2005). Rule 60(b)(4) provides relief from a final judgment if that judgment is void as a matter of law. Fed. R. Civ. P. 60(b)(4). “The list of such judgments is ‘exceedingly short,’ and ‘Rule 60(b)(4) applies only in the rare instance where a judgment is premised either on a certain type of jurisdictional error or on a violation of due process that deprives a party of notice or the opportunity to be heard.’” *Dietz v. Bouldin*, 794 F.3d 1093, 1096 (9th Cir. 2015) (quoting *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 271 (2010)), *aff’d*, 579 U.S. 40 (2016)).

Mr. Carr argues that the judgment is void based on “a procedural defect in the denial of a JUDGMENT IN A CIVIL CASE [sic].” (MFR at 1 (citing *Gonzalez*, 545 U.S. at 539 n.1).) He asserts that the court “violated the Magistrates Act and Habeas Rule 4 and 8(b)” by recharacterizing Petitioner’s 28 U.S.C. § 2241 petition as a 28 U.S.C. § 2254 petition, “and applying 28 U.S.C. §2244(b), without notice.” (*Id.*) Mr. Carr asks

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<sup>1</sup> Magistrate Judge Tsuchida set forth the factual background of this case in the report and recommendation. (*See* R&R at 2-4; *see also* 10/10/24 Order (adopting the R&R).) Therefore, the court does not repeat that background here.

1 the court to void the court's October 10, 2024 order and reopen his habeas case "upon the  
2 failure to apply United States Supreme Court precedent in determination of the  
3 imposition of 'Life' sentence with no jury determination claim presented in [P]etitioner's  
4 28 U.S.C. §2241 [sic]." (*Id.* at 2 (citing *Williams v. Taylor*, 529 U.S. 362 (2000); *Martin*  
5 *v. Overton*, 391 F.3d 710 (6th Cir. 2004).) Mr. Carr's motion does not address the  
6 substance or reasoning of the report and recommendation or the standard for granting  
7 relief from judgment. Further, Mr. Carr fails to show that the judgment is void because  
8 this court lacked subject matter jurisdiction, lacked jurisdiction over the parties, or acted  
9 in a matter inconsistent with due process that deprived a party of notice or the  
10 opportunity to be heard. *Espinosa*, 559 U.S. at 270-71. Accordingly, Mr. Carr is not  
11 entitled to relief under Rule 60(b).

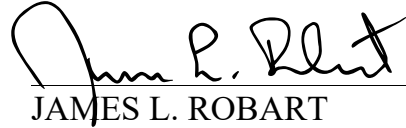
12 Mr. Carr also asserts that the court should issue a certificate of appealability  
13 because "[r]easonable jurists agree" that the court incorrectly "recharacterize[ed]  
14 [P]etitioner's" 28 U.S.C. § 2241 petition as a 28 U.S.C. § 2254 petition and erred by  
15 "applying 28 U.S.C. §2244(b), without notice." (MFR at 1-2 (citing cases).) But the  
16 cases that Mr. Carr cites do not demonstrate that "jurists of reason could disagree with the  
17 district court's resolution of his constitutional claims or that jurists could conclude the  
18 issues presented are adequate to deserve encouragement to proceed further." *Miller-El v.*  
19 *Cockrell*, 537 U.S. 322, 327 (2003); *see also United States v. Winkles*, 795 F.3d 1134,  
20 1143 (9th Cir. 2015) (applying standard to denial of a Rule 60(b) motion). Mr. Carr  
21 therefore is not entitled to a certificate of appealability.

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**III. CONCLUSION**

For the foregoing reasons, the court DENIES Mr. Carr's motion for relief from judgment (Dkt. # 14) and DENIES his request for a certificate of appealability.

Dated this 28th day of October, 2024.

A handwritten signature in black ink, appearing to read "James L. Robart", is written over a horizontal line.

JAMES L. ROBART  
United States District Judge